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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,236	08/08/2001	David Pincus	Gems0132/Yod	9895

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EXAMINER

LINNENKAMP, NICHOLAS L

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 12/15/2003

2

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,236

Applicant(s)

PINCUS, DAVID

Examiner

Nicholas L Linnenkamp

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/8/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 51 and 78. Reference sign 51 is referenced in pp [0018] but not disclosed, although it was generally understood that 51 was a computer input device and probably mislabeled 51 instead of 54. Reference sign 78 is referenced in pp [0026], [0027], and [0028] but not disclosed in the drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 98. Reference sign 98 is labeled on Fig. 5 but is not described in the specification. It is clear that in pp [0027] reference is made to a "sixth portion" labeled as 94 but 94 is already a reference for a "fourth portion". A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6,8-18,20-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Wood.

In reference to claim 1, Wood teaches of a wireless communication system as shown in Figs. 5 and 6 that has a programmable interface (14) coupleable between a device (90, 92, 94 attached through ports 84, or 86) and a transmitter (64, or 54), with interface operable to receive device data from the device (90 or 92) and to provide user-configurable data to the transmitter. Wood teaches of a programming station (10) as shown in Fig 1 selectively coupleable (through interrogator 12) to the interface to enable a user to program the interface (14) to provide the user-configurable data to the transmitter such as sending GPS data associated with device data (Col 2, lines 25-40).

In reference to claim 2, Wood teaches claim 1 as above. Wood also teaches that his intelligent communication device can selectively collect device operational data (Col 9, lines 33-37).

In reference to claim 3, Wood teaches claim 1 as above. Wood also teaches that data is received at periodic time intervals through configuration of time duration and operation of wake up circuitry (Col 7, lines 39-40).

In reference to claim 4, Wood teaches claim 3 as above. Wood also teaches that device data passed to the intelligent communication device control the operation of the periodic interval through the use of wake up circuitry (Col 7, lines 30-40).

In reference to claim 5, Wood teaches claim 1 as above. Wood also teaches that intelligent communication device (14) processes operational data, such as the process of timed collection as shown in claim 4, in response to programming provided by programming station (10).

In reference to claim 6, Wood teaches claim 5 as above. Wood also teaches the use of a Micron Microstamptm device such as the one described in patent US 6130602 A by O'Tool for use as the intelligent communication device, which contains memory, algorithmic logic units, and control registers for performing control functions such as that of addition or accumulation (Col 4, lines 25-31).

In reference to claim 8, Wood teaches claim 1 as above. Wood also teaches the use of a computer system (10).

In reference to claim 9, Wood teaches claim 8 as above. Wood also teaches the use of a cell controller (52) and antenna (Col 5, lines 37-43).

In reference to claim 10, Wood teaches claim 9 as above. Wood also teaches that the cell controller (52) is attached (50) to computer system (10).

In reference to claim 11, Wood teaches claim 1 as above. Wood also teaches the use of a transceiver (66, 72). Wood's transceiver attached to a microprocessor was reasonably read to correspond to applicant's transponder since a transponder contains

all the functionality of a transceiver (bi-directional communication) but is programmed to respond to a query signal, of which Wood's system exhibits.

In reference to claim 12, Wood teaches the use of an interface for a wireless communication system (14), wherein the interface receives operational data from data ports (84, 86) and provides a second set of data to be transmitted wherein the second set of data is configurable. Wood's ability to set the wake up period for the collection of data was reasonably read to correspond to customizing the second set of data from a continuous stream to periodic, with the ability to set the period (Col 7, lines 30-40).

In reference to claims 13 and 14, Wood teaches claim 12 as above. Wood also teaches that the interface is operable to process incoming data and transmit at least some of the processed data, and programming the interface to direct the operation of the interface, such as Wood's ability to make a comparative threshold test against user-supplied data and device-supplied data and transmit output indicative of test results (Col 10, lines 4-9).

In reference to claims 15 and 16, Wood teaches claim 14 as above. Wood teaches as shown in Figs 1 and 6, that the interface (14) is coupleable to a programming station (10), the programming station (10) being operable to provide the interface (14) with programming to enable the interface to communicate with the device (90, 92) using a first communication protocol such as programmed reference voltages (96) or analog-to-digital converter (98) and with the transmitter using a second communication protocol such as RS-232 protocol (Col 7, lines 44-47) for a modem (54). Wood also teaches that micro-controller (60) of interface (14) can be programmed at will

to interface a different device or more than one device by selectively enabling the interfaces with command and configuration data (Col 9, lines 33-37).

In reference to claim 17, Wood teaches claim 12 as above. Wood also teaches that collected interface data comprises device-operating data as described in claim 2.

In reference to claim 18, Wood teaches claim 17 as above. Wood also teaches that interface is operable for user to select desired device data to be transmitted as described in claim 2.

In reference to claim 20, Wood teaches claim 12 as above. Wood also teaches of an electrical connector such as a RS-232 data interface (Col 5 lines 34-42) for mating with electrical connector (another RS-232 data interface) coupled to programming system for either local or remote connection.

In reference to claim 21, Wood teaches claim 20 as above. Wood also teaches the interface has second electrical connector (84) for engagement with a connector coupled to the device.

In reference to claim 22, Wood teaches claim 12 as above. Wood also teaches the use of a transponder as described in claim 11 above.

In reference to claim 23, Wood teaches claim 21 as above. Wood also teaches of a third electrical connector such as a RS-232 data interface for engagement with a transmitter such as a cellular modem (Col 5, lines 34-42).

In reference to claim 24, Wood teaches a method of operating a wireless communication system to enable a user to configure device data communicated by transmitter coupled to a device, that comprise; Connecting the interface to programming

station operated by a user as in claim 20 above, Operating programming station to program interface to provide user selected data to the transmitter as in claim 5 above, Coupling the interface between device and transmitter as in claim 23 above.

In reference to claim 25, Wood teaches claim 24 as above. Wood also teaches of transmitting a unique identifier for the transmitter with data from the device (Col 1, lines 10-13).

In reference to claim 26, Wood teaches claim 24 as above. Wood teaches of a method for configuring intelligent communication device through the transmittal of configuration data over RF as to cause the device to change its method of operation according to configuration data (Col 3, lines 60-65).

In reference to claim 27, Wood teaches of a method for operating a wireless communication system to enable a user to configure data communicated from a medical asset by a transmitter, comprising; Connecting interface to programming station operated by a user as in claim 20 above, Operating programming station to program interface to provide user selected data from the medical asset to the transmitter as in claim 5 above, Coupling the interface between medical device and transmitter as in claim 23 above. It is noted that medical assets are a subset of all devices described by Wood's apparatus and method for remote monitoring and thus included.

In reference to claim 28, Wood teaches claim 27 as above. Wood also teaches of transmitting a unique identifier for the transmitter with data from the device (Col 1, lines 10-13).

In reference to claim 29, Wood teaches claim 27 as above. Wood also teaches of a method for configuring intelligent communication device through the transmittal of configuration data over RF as to cause the device to change its method of operation according to configuration data (Col 3, lines 60-65).

In reference to claim 30, Wood teaches claim 27 as above. Wood also teaches of operating the programming station to establish an interval that the medical asset parameter is monitored by the programmable interface (Col 7, lines 30-40).

30).

Thus Wood teaches all the limitations of Claims 1-6,8-18,20-30.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Wood.

Wood teaches claim 6 as above under 35 U.S.C. 102(b). Wood remains silent as to the manipulation of data stored on the device such as erasing or resetting. One of ordinary skill in the art at the time of invention would have recognized the need to clear, reset, erase, or otherwise invalidate the data contained in the programmable RFID because eventually the finite memory would be filled with data and then the RFID would be rendered useless or output erroneous data. It would have been obvious to one skilled in the art at the time of invention to read/reset collected device data because the programmable micro-controller disclosed by Wood has the capability to read and write to memory, instructions for operating the controller, and a need exist to manipulate the data collected as necessary in order to ensure useful operation.

5. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Wood.

Wood teaches claim 12 as above under 35 U.S.C. 102(b). Wood also teaches the use of a Micron Microstamp™ device such as the one described in patent US 6130602 A by O'Tool for use as the intelligent communication device, which contains memory, algorithmic logic units, and control registers for performing control functions such as that of addition or accumulation (Col 4, lines 25-31). Wood remains silent as to the exact device data transmitted by the interface. Wood does teach of using second-party programs for compiling collected data into a manageable form (Col 10, lines 33-44). Wood discloses a need for analysis of collected data and one of ordinary skill in the art at the time of invention would have also recognized the need to collect operational data

in such a fashion as to be pertinent to the tracking of the device of interest. It would have been obvious to one skilled in the art at the time of invention to transmit as necessary, data useful to the user of such a monitoring device such as an ongoing count.

6. It is noticed that O'Toole's patent, US 6130602 A, incorporated into Wood's patent by reference, describes the intelligent communication device fully with reference on how to set the periodic polling of external sensor devices through the use of wake and sleep signals of which can be set anywhere from 1 second to 255 seconds (8bits) in 1 second increments. Additionally, the microprocessor described in the patent is capable of doing addition, among other tasks (Col 47, lines -16; Col 51, lines 15-27; Col 52, lines 41-42).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas L Linnenkamp whose telephone number is (703) 305-8701. The examiner can normally be reached on 8:00-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

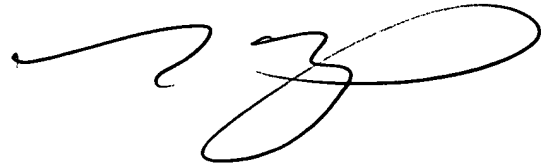
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.

Application/Control Number: 09/682,236
Art Unit: 2635

Page 11

Nicholas L Linnenkamp
Examiner
Art Unit 2635

NLL

A handwritten signature in black ink, appearing to be 'NLL' with a large, stylized loop at the end.